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STEVEN W. SUFLAS, ESQUIRE
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Attorneys for Defendants D.D.S. Painting and Carpentry, Inc. and Robert Sottile

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

RUBEN AGUILAR, EUGENIO
AGUILAR, SAUL GARCIA, LUCAS
GARCIA, and EDUARDO SANCHEZ,

Plaintiffs,

v.

D.D.S. PAINTING AND CARPENTRY,
INC., CUMHUR AYDIN, ROBERT
SOTILE, and EMPIRE PAINTING, INC.,

Defendants.

Civil Action No.: _____

NOTICE OF REMOVAL

TO: CHIEF JUDGE AND JUDGES OF THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

ON NOTICE TO:

Keith G. Talbot, Senior Attorney
Legal Services of New Jersey, Inc., Farmworker Project
71 East Commerce Street, 3rd Floor
Bridgeton, New Jersey 08302
Attorney for Plaintiffs

Clerk, Law Division
Superior Court of New Jersey
Cumberland County Courthouse
P.O. Box 10
Bridgeton, New Jersey 08302

Theodore Fetter, Acting Clerk
Superior Court of New Jersey
Hughes Justice Complex
CN 971
Trenton, New Jersey 08625

PLEASE TAKE NOTICE that the counsel for Defendants D.D.S. Painting and Carpentry, Inc. and Robert Sottile (incorrectly denominated in the Complaint as "Robert Sotile") hereby remove this action from the Superior Court of New Jersey, Law Division, Cumberland County, to the United States District Court, District of New Jersey, Camden Vicinage, pursuant to 28 U.S.C. §§ 1441 and 1446 and based upon the following:

1. Plaintiffs filed a Complaint in the Superior Court of New Jersey, Law Division, Cumberland County under Docket No.: CUM-L-957-06 (the "State Court Proceeding"), on or about September 11, 2006. A copy of Plaintiffs' Complaint is attached hereto as Exhibit A.

2. Defendants D.D.S. Painting and Carpentry, Inc. and Robert Sottile were served with a copy of Plaintiffs' Summons and Complaint on October 4, 2006.

3. Based on the allegations in the Complaint, Plaintiffs are alleging violations of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.*, amongst other claims. Thus, this Court has federal question subject matter jurisdiction over Plaintiffs' FLSA claims pursuant to 28 U.S.C. § 1331, as it arises under the laws of the United States. Accordingly, this is a civil action which may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441.

4. In the Complaint, Plaintiffs also allege Defendants violated the New Jersey Wage and Hour Law, N.J.S.A. 34:11-56a *et seq.*, and New Jersey common law for breach of an alleged employment contract to pay certain wages.

5. Plaintiffs' New Jersey Wage and Hour Law claims and New Jersey common law claims are based upon the same nucleus of operative facts as alleged in support of their FLSA claims. Thus, Plaintiffs' New Jersey Wage and Hour Law claims and New Jersey common law claims form part of the same case or controversy over which the Court has original jurisdiction.

6. This Court should exercise supplemental jurisdiction over the remaining claims of the above-described action pursuant to 28 U.S.C. § 1367(a) as they all derive from a common nucleus of fact and it would be in the best interest of judicial economy and fairness.

7. The State Court Proceeding, therefore, is properly removed pursuant to 28 U.S.C. § 1441(a).

8. This Notice is filed within the time prescribed by 28 U.S.C. § 1446(b). It has been filed within 30 days from the receipt of service of the initial pleading setting forth the claims for relief upon which this action is based by a defendant having the right to file a Notice of Removal.

9. Defendants D.D.S. Painting and Carpentry and Robert Sottile consent to this removal. A declaration from Cumhur Aydin, an individual Defendant, and owner of Empire Painting, Inc., another Defendant, also consenting to removal is attached hereto as Exhibit B.

10. Copies of all process, pleadings, and orders validly served upon the Defendants D.D.S Painting and Carpentry and Robert Sottile in the State Court Proceeding are attached hereto as Exhibit A.

11. Written notice of the filing of this Notice of Removal is being forwarded to Plaintiffs' counsel, as well as the Clerk of the Court for the Superior Court of New Jersey, Law Division, Cumberland County, pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, Defendants D.D.S. Painting and Carpentry and Robert Sottile hereby remove the State Court Proceeding to the United States District Court for the District of New Jersey, Camden Vicinage.



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Dated: November 3, 2006

Attorneys for Defendants
D.D.S Painting and Carpentry, Inc. and
Robert Sottile

CERTIFICATE OF SERVICE

I, Jennifer L. Sova, hereby certify that true and correct copies of Defendants' D.D.S. Painting and Carpentry, Inc. and Robert Sottile's Notice of Removal and Application for a Clerk's Extension have been filed electronically and are available for viewing and downloading from the ECF system on November 3, 2006. I further certify that I caused a true and correct copy of the same to be served upon the following on November 3, 2006 upon the following:

Keith G. Talbot, Senior Attorney
Legal Services of New Jersey, Inc., Farmworker Project
71 East Commerce Street, 3rd Floor
Bridgeton, New Jersey 08302
Attorney for Plaintiffs, via Federal Express

Clerk, Law Division
Superior Court of New Jersey
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Delran, NJ 08075 via first class, regular mail, postage prepaid


Jennifer L. Sova

Dated: November 3, 2006